IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 891 (MS) OF 2006

Pankaj Bhatt, S/o late L.M. Bhatt,
R/o 80/2, Ward No.9, Winson Lodge,
Tallital, Nainital, District-Nainital. .....Petitioner

Versus

1. Prescribed Authority/Chief Judicial Magistrate, Nainital.
2. Smt. Pramila Abraham, W/o Juliyam Abraham, R/o St. Andruj, P.G. College, Gorakhpur, Uttar Pradesh.
.....Respondents.
3. Vijay Bhatt, S/o late L.M. Bhatt, R/o 80/2, Ward No.9, Nainital, District Nainital. .....Profoma Respondents.

Dated: 13.07.2006

Hon'ble Rajesh Tandon, J.

Heard Sri K.N. Joshi, Advocate for the petitioner and Standing Counsel for the respondent no. 1.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 6th July, 2006.

Briefly stated, during the proceedings under Section 21 (1) (a) of the U.P. Act No. 13 of 1972, the petitioner has filed an application under Order I Rule 10 of the Code of Civil Procedure on 6th July, 2006. On the same day, the order has been passed by which 14th July, 2006 has been fixed for the arguments.

Petitioner has submitted that the Presiding Officer has fixed the date without disposing of the application under Order

I Rule 10 of the Code of Civil Procedure. Following order has been passed by the Presiding Officer:-

"case called out present ld. Counsel of the parties, 82 Ga application moved by proposed applicant Pankaj Bhatt through his act. Connect of Adjt. Moved by O.P. heavet not opposed. Allowed in the interest of justice fix 14-7-06 of arguments fixed disposal 82 Ga. Rejoinder always be filed by8 Land Lord, if any before the date photocopy."

In paragraph 19 of the written statement, it has been stated as under:-

"24. That application is bad for non joinder of the other heirs of Late Sri L.M. Bhatt the original tenant."

As will appear from the aforesaid order that he has not disposed of the application on merits and has simply fixed 14th July, 2006 for arguments. However, if the application has already been disposed of, no reasons have been given by the Prescribed Authority while considering the application 82-Ga and it appears that the Presiding Officer has passed the order without considering the application on merits and as such the Presiding Officer is directed to dispose of the application by a reasoned Order in accordance with law.

Subject to the aforesaid observation, writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

13.07.2006
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